

JOURNAL OF THE HOUSE.

Tuesday, July 20, 2004.

Met according to adjournment, at one o'clock P.M.

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

God, Our Creator, we pause for moment of prayer and reflection as we focus our thoughts and attention on You, spiritual values, our personal goals, priorities and responsibilities. By following Your guidelines for successful living, we enjoy peace of mind and spirit. Inspire us as legislators to make thoughtful proposals which utilize and maximize our opportunities for serving people and our communities now and in the years ahead. In these uneasy but exciting times, teach us to be open to new informations, accurate data and new technological discoveries in our search for truth, objectivity, fairness and ethical standards.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Pledge of allegiance.

At the request of the Speaker, the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Message from the Acting Governor — Veto.

Revere and Boston, Sales Creek.

A message from Her Honor the Lieutenant-Governor, Acting Governor, returning with her objections thereto in writing the engrossed Bill directing the department of conservation and recreation to repair certain culverts [see House, No. 4918] (for message, see House, No. 5008) was filed in the Office of the Clerk on Monday, July 19.

The message was read; and, under House Rule 30, referred, to the committee on Ways and Means.

Statement Concerning Representative Kennedy of Brockton.

Statement concerning Representative Kennedy of Brockton.

A statement of Mr. DiMasi of Boston concerning Mr. Kennedy of Brockton was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Kennedy of Brockton, will not be present in the House Chamber for today's sitting due to a death in his family. Any roll calls that he may miss today or for the next few days is due entirely to the reason stated.

Statement Concerning Representative Wolf of Cambridge.

Statement concerning Representative Wolf of Cambridge.

A statement of Mr. DiMasi of Boston concerning Ms. Wolf of Cambridge was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Wolf of Cambridge, will not be present in the House Chamber for today's sitting due to a death in her family. Any roll calls that she may miss today or for the next few days is due entirely to the reason stated.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Eldridge of Acton) honoring David W. Durrant;

David W. Durrant.

Resolutions (filed by Mr. O'Brien of Kingston) congratulating Christopher Caron on receiving the Eagle Award of the Boy Scouts of America;

Christopher Caron.

Resolutions (filed by Mr. O'Brien of Kingston) congratulating Matthew Wheble on receiving the Eagle Award of the Boy Scouts of America; and

Matthew Wheble.

Resolutions (filed by Mr. Rush of Boston) honoring Professor Robert L. Deasy;

Robert L. Deasy.

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Eldridge, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Petitions severally were presented and referred as follows:

By Mr. Kelly of Dalton, petition (accompanied by bill, House, No. 5011) of Shaun P. Kelly and Stanley C. Rosenberg (by vote of the town) relative to validating the proceedings of the presidential primary in the town of Bernardston; and

Bernardston, presidential primary.

By Mrs. Poirier of North Attleborough, petition (accompanied by bill, House, No. 5012) of Elizabeth S. Poirier and Scott P. Brown (by vote of the town) relative to elections in the town of North Attleborough;

North Attleborough, elections.

Severally to the committee on Election Laws.

By Mr. Kulik of Worthington, petition (accompanied by bill, House, No. 5013) of Stephen Kulik and Stanley C. Rosenberg (by vote of the town) for legislation to authorize the town of Montague to issue additional licenses for the sale of alcoholic beverages to be drunk on the premises; and

Montague, liquor licenses.

By Mr. Marzilli of Arlington, petition (accompanied by bill, House, No. 5014) of J. James Marzilli, Jr., Jay R. Kaufman, Anne M. Paulsen and Robert A. Havern (by vote of the town) relative to increasing the number of licenses for the sale of alcoholic beverages for certain restaurants in the town of Arlington;

Arlington, liquor licenses.

Severally to the committee on Government Regulations.

By Mr. Webster of Hanson, petition (accompanied by bill, House, No. 5015) of Daniel K. Webster, Thomas J. O'Brien and Robert L. Hedlund (by vote of the town) that the town of Duxbury be authorized to establish an affordable housing trust fund. To the committee on Housing and Urban Development.

Duxbury, housing trust fund.

By Mr. Kafka of Sharon, petition (accompanied by bill, House, No. 5016) of Louis L. Kafka, Jo Ann Sprague and Brian A. Joyce (by vote of the town) that the town of Sharon be authorized to convey certain conservation land to Sharon Plaza Associates. To the committee on Local Affairs and Regional Government.

Sharon.

Arlington.

By Mr. Marzilli of Arlington, petition (accompanied by bill, House, No. 5017) of J. James Marzilli, Jr., Jay R. Kaufman, Anne M. Paulsen and Robert A. Havern (by vote of the town) that Timothy Pacheco of the town of Arlington be authorized to apply for the position of fire fighter in said town, notwithstanding the maximum age requirements. To the committee on Public Service.

Severally sent to the Senate for concurrence.

*Papers from the Senate.*

Kuzeja  
Real Estate  
Trust.

The House Bill directing the commissioner of Capital Asset Management and Maintenance to place a conservation restriction on and transfer a certain parcel of land to the Kuzeja Real Estate Trust (House, No. 3985) came from the Senate passed to be engrossed, in concurrence, with amendments in section 1, in line 9, by inserting after the word "parcel" the following: ", being a portion of the n/f 'Bassett Road' a 1798 county layout between the City of Holyoke City Line to a point in Bassett Road opposite the northwesterly corner of a parcel of land belonging now or formerly of Evadin C. O'Connor & Evadine K. Lennon, as"; and by adding at the end of said section the following sentence: "The exact boundaries of the parcel shall be determined by the commissioner after completion of a survey."

Under suspension of Rule 35, on motion of Mr. Scibak of South Hadley, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Wareham,  
sewer  
construction.

The House Bill authorizing the town of Wareham to construct a sewer in certain park land (House, No. 4150) came from the Senate passed to be engrossed, in concurrence, with an amendment in line 3, inserting after the word "town", the first time it appears, the following: ", if the town provides appropriate mitigation for this sewer easement for the purposes of Article XLIX, as appearing in Article XCVII, of the Amendments to the Constitution".

Under suspension of Rule 35, on motion of Ms. Gifford of Wareham, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Middleton,  
easements.

The House Bill authorizing the town of Middleton to grant certain easements (House, No. 4196) came from the Senate passed to be engrossed, in concurrence, with an amendment in section 3 by adding at the end thereof the following sentence: "The \$60,507.44 received in exchange for the easements shall be appropriated by the town of Middleton consistent with section 63 of chapter 44 of the General Laws."

Under suspension of Rule 35, on motion of Mr. Jones of North Reading, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

The House Bill relative to the safe placement of newborn infants (House, No. 4325, amended) came from the Senate passed to be engrossed, in concurrence, with amendments in section 1, in the second paragraph, striking out the second sentence (inserted by amendment by the House) as follows: "Such voluntary abandonment shall be considered an affirmative defense to an agency decision under section 51B in that the child is safe from physical injury and cared for in an appropriate manner.", in line 21, inserting after the word "hospital" the words "police department or manned fire station", and in lines 34 to 37, inclusive, striking out the following: "(3) name and address of person placing child if not parent, (4) location of child's birthplace, (5) information of child's medical history, if available, (6)" and inserting in place thereof the following: "(3) the location of the newborn infant's birthplace, (4) information relative to the newborn infant's medical history and his or her biological family's medical history, if available, and (5)"; and in section 2, in lines 25 and 26, striking out the words "or lawful agent of a parent".

Newborns  
and  
infants.

Under suspension of Rule 35, on motion of Mr. Finegold of Andover, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

*Bills*

Authorizing the town of Weston to regulate certain property tax exemption eligibility requirements for the elderly (Senate, No. 2053) (on a petition) [Local Approval Received];

Weston,  
property  
tax.

Relative to impact fees in a business development overlay district in the town of Wareham (Senate, No. 2454) (on Senate bill, No. 2348);

Wareham,  
mitigation  
fees.

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, Senate, No. 2450) of Pamela P. Resor and James B. Eldridge (by vote of the town) for legislation to designate Shirley an economic target area. To the committee on Commerce and Labor.

Shirley,  
economic  
target  
area.

Petition (accompanied by bill, Senate, No. 2448) of Marc R. Pacheco and Susan Williams Gifford (by vote of the town) for legislation to authorize the town of Wareham to grant 5 additional licenses for the sale of all alcoholic beverages to be drunk on the premises; and

Wareham,  
liquor  
licenses.

Petition (accompanied by bill, Senate, No. 2451) of Guy W. Glodis and Paul K. Frost (by vote of the town) for legislation to authorize the town of Millbury to grant an additional license for the sale of alcoholic beverages to be drunk on the premises;

Millbury,  
liquor  
license.

Severally to the committee on Government Regulations.

Petition (accompanied by bill, Senate, No. 2453) of Susan C. Fargo and Susan W. Pope (by vote of the town) for legislation relative to certain housing in the town of Lincoln. To the committee on Housing and Urban Development.

Lincoln,  
housing.

Wareham,  
newborns.

Petition (accompanied by bill, Senate, No. 2449) of Marc R. Pacheco and Susan Williams Gifford (by vote of the town) for legislation relative to the safe placement of newborns in the town of Wareham. To the committee on Human Services and Elderly Affairs.

Falmouth,  
golf  
course.

Petition (accompanied by bill, Senate, No. 2447) of Therese Murray, Eric Turkington and Matthew C. Patrick (by vote of the town) for legislation to authorize certain terms for borrowing by the town of Falmouth for the acquisition and operation of a golf course. To the committee on Local Affairs and Regional Government.

Melrose,  
police  
officers.

Petition (accompanied by bill, Senate, No. 2452) of Richard R. Tisei, Thomas M. McGee and Michael E. Festa (with approval of the mayor and city council) for legislation relative to the city of Melrose, special police officers. To the committee on Public Service.

#### *Reports of Committees.*

Somerville,  
public  
safety.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the House Bill relative to public safety in the city of Somerville (House, No. 4989) [Local Approval Received] be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Toomey of Cambridge, the bill was read a second time forthwith; and it was ordered to a third reading.

UMass  
Amherst,  
mutual aid  
agreements.

Report of the committee on Public Safety, ought NOT to pass (under Joint Rule 10), on the petition (accompanied by bill, House, No. 4832) of Ellen Story, Stephen Kulik, John W. Scibak, Peter V. Kocot, Christopher J. Donelan and Stanley C. Rosenberg for legislation to authorize the University of Massachusetts at Amherst to enter into mutual aid agreements with municipal police departments.

Under suspension of the rules, on motion of Ms. Story of Amherst, the report was considered forthwith.

Pending the question on acceptance of the report, the same member moved that it be amended by substitution of the Bill relative to the police powers of towns in western Massachusetts (House, No. 4832), which was read.

The amendment was adopted; and, under suspension of the rules, on further motion of Ms. Story, the substituted bill was read a second forthwith; and it was ordered to a third reading.

Elevator  
regulations.

By Mr. Toomey of Cambridge, for the committee on Public Safety, on House, No. 1728, a Bill relative to the Board of Elevator Regulations (House, No. 5009). Read; and referred, under Rule 33, to the committee on Ways and Means.

Traffic  
safety.

By Mr. Toomey of Cambridge, for the committee on Public Safety, on House, No. 3377, a Bill permitting the use of traffic control signal violation monitoring system devices as a means of promoting traffic safety in the cities of Boston and Cambridge (House, No. 5010). Read; and referred, under Rule 33D, to the committee on Homeland Security and Federal Affairs.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the following bills ought to pass:

The Senate Bill promoting ski safety (Senate, No. 1376, amended); and

Ski helmets,  
mandatory.

The to further prevent insurance fraud (House, No. 4713);

Insurance  
fraud.

Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

#### *Emergency Measures.*

The engrossed Bill relative to the Uncompensated Care Trust Fund (see House, No. 4919, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Uncompensated  
Care Fund.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 31 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment) was passed to be re-enacted, in its amended form; and it was signed by the Speaker and sent to the Senate.

Bill  
re-enacted.

The engrossed Bill relative to the ability of essential community providers to furnish human services (see House, No. 4920, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Essential  
Community  
Provider  
Fund.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 34 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment) was passed to be re-enacted, in its amended form; and it was signed by the Speaker and sent to the Senate.

Bill  
re-enacted.

The engrossed Bill providing for expenditure for the Uncompensated Care Trust Fund (see House, No. 4921, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Uncompensated  
Care Trust  
Fund.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 41 to 0. Sent to the Senate for concurrence.

Bill  
re-enacted.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment) was passed to be re-enacted, in its amended form; and it was signed by the Speaker and sent to the Senate.

*Engrossed Bills.*

Bill  
enacted.

The engrossed Bill authorizing certain borrowing by the town of Tewksbury (see House, No. 4965) (which originated in the House), in respect to which the Senate had concurred in adoption of the emergency preamble, was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

Bills  
enacted.

Engrossed bills  
Relative to compensation for certain erroneous felony convictions (see House, No. 4255); and  
Relative to the safe placement of newborn infants (see House, No. 4325, amended);  
(Which severally originated in the House);  
Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the Speaker and sent to the Senate.

*Motions to Discharge Certain Matters in the Orders of the Day.*

Nantucket,  
conservation  
restriction.

Mr. Turkington of Falmouth moved that the Senate Bill authorizing the Nantucket Islands Land Bank to grant a conservation restriction to the Nantucket Conservation Commission (Senate, No. 1167), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed, in concurrence.

Plumbers  
and gas  
fitters.

Mr. Travis of Rehoboth moved that the House Bill requiring continuing education for licensed plumbers and gas fitters (House, No. 4750), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Wayland,  
town  
administrator.

Mrs. Pope of Wayland moved that the House Bill relative to the position of town administrator in the town of Wayland (House, No. 4784), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Mr. Bradley of Hingham moved that the House Bill authorizing the town of Hingham to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 4896), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Hingham,  
liquor  
license.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Mr. Spellane of Worcester moved that the Senate Bill protecting the Nashua River Basin (Senate, No. 2347), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Nashua  
River  
Basin.

The bill then was read a second time; and it was ordered to a third reading.

Mrs. Gomes of Harwich moved that the House Bill establishing an affordable housing trust fund in the town of Wellfleet (House, No. 4776), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Wellfleet,  
housing  
fund.

The bill then was read a second time; and it was ordered to a third reading.

Mrs. Gomes of Harwich moved that the House Bill relative to the historic district commission of the town of Provincetown (House, No. 4780), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Provincetown,  
historic  
commission.

The bill then was read a second time; and it was ordered to a third reading.

Mrs. Gomes of Harwich moved that the House Bill relative to the board of assessors of the town of Provincetown (House, No. 4781), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Provincetown,  
assessors.

The bill then was read a second time; and it was ordered to a third reading.

Mr. deMacedo of Plymouth moved that the House Bill authorizing the town of Plymouth Airport Commission to lease certain parcels of land (House, No. 4820), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Plymouth  
Airport  
Commission.

The bill then was read a second time; and it was ordered to a third reading.

Mr. Wagner of Chicopee moved that the House Bill authorizing the city of Chicopee to convey certain park land in the city of Chicopee (House, No. 4992), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Chicopee,  
park land.

The bill then was read a second time; and it was ordered to a third reading.

Consumer  
transactions.

Mr. Torrisi of North Andover moved that the Senate Bill relative to certain consumer transactions and the satisfaction of security interests (Senate, No. 2238), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time.

Pending the question on passing the bill to be engrossed, in concurrence, the same member moved that it be amended by striking out section and inserting in place thereof the following section:

“SECTION 1. Section 24 of Chapter 90D of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:—

If the payment in satisfaction of the security interest is in cash or by certified check, cashier’s check, teller’s check, intra-bank or inter-bank transfer of funds, or an electronic transfer of funds, the payment shall be deemed to be cleared immediately upon receipt by a lienholder.”

The amendment was adopted.

Mr. Torrisi then moved that the bill be amended in section 2, in line 22, by inserting after the word “error.” the following sentence: “A lienholder shall not be found liable for such noncompliance if such noncompliance occurred as a result of an action or inaction of the registry or the registrar.”

The amendment was adopted; and the bill (Senate, No. 2238, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendments.

Disability  
insurance.

Mr. Mariano of Quincy moved that the House Bill relative to disability insurance (House, No. 4657), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time.

Pending the question on passing the bill to be engrossed, the same member moved that it be amended by adding at the end thereof the following section:

“SECTION 2. Said section 108 of said chapter 175, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

The above policy provision (6) may be included only in a policy which provides a loss-of-time benefits which may be payable for at least 52 weeks, which is issue on the basis of selective underwriting of each individual application, and for which the application includes a question designed to elicit information necessary either to determine the ratio of the total loss-of-time benefits of the insured to the insured’s earned income or to determine that such ratio does not exceed the percentage of earnings not less than 60 per cent, selected by the insurer and inserted in lieu of the blank factor specified in this section. The insurer may require, as part of the proof of claim, the information necessary to administer this provision. If the appli-

cation indicates that other loss-of-time coverage is to be discontinued, the amount of such other coverage shall be excluded in computing the alternative percentage in the first sentence of the overinsurance provision. The policy shall include a definition of ‘valid loss-of-time coverage,’ approved as to form by the commissioner, which definition may include coverage provided by governmental agencies and by organizations subject to regulation by insurance law and by insurance authority of this or any other state of the United States or of any other country or subdivision thereof, coverage provided for such insured pursuant to any disability benefits statute or any workmen’s compensation or employer’s liability statute, benefits provided by labor-management trustee plans or union welfare plans or by employer or employee benefit organizations, or by salary continuance or pension programs, and any other coverage the inclusion of which may be approved by the commissioner.”

The amendment was adopted; and the bill (House, No. 4657, amended) was passed to be engrossed. Sent to the Senate for concurrence.

#### *Engrossed Bill — State Loan.*

The engrossed Bill relative to School Building Assistance (see House, No. 4977) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a “loan” bill as defined by Section 3 of Article LXII of the Amendments to the Constitution); and on the roll call 156 members voted in the affirmative and 0 in the negative.

#### **[See Yea and Nay No. 731 in Supplement.]**

Therefore the bill was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

#### *Reports of a Committee.*

Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 4900), returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4850), reported, in part, in each instance, that certain items (contained in section 2) and section 320 stand (as passed by the General Court).

Under suspension of the rules, in each instance, on motion of the same member, the following items and section were considered; and the sense of the House, in each instance, was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution, as follows:

School  
Building  
Assistance.Bill enacted  
(state loan),  
yea and nay  
No. 731.General  
Appropriation  
Bill,  
reductions  
and  
disapprovals.

General  
Appropriation  
Bill,  
reductions  
and  
disapprovals.

Section 320, which had been vetoed by the Governor, was considered, as follows:

"SECTION 320. Notwithstanding any general or special law to the contrary, a solid waste facility shall not be sited within nor shall a permit be granted for the establishment, construction, expansion, maintenance, or operation of a solid waste facility within the Zone II area of contribution, as said term is defined by section 22.02 of title 310 of the code of Massachusetts regulations, of an existing public water supply well; provided, however that such a prohibition shall only apply to any proposed solid waste facility located at any place in the city of Brockton, which had not received a site assignment on or before January 1, 2004."

After debate the question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 134 members voted in the affirmative and 22 in the negative.

**[See Ye and Nay No. 732 in Supplement.]**

Therefore section 320 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 1599-6901 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

"1599-6901 For a reserve to adjust the wages, compensation or salary and associated employee-related costs to personnel who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided, that home care workers shall be eligible for funding from this appropriation; provided further, that the secretary of administration and finance may allocate the funds appropriated in this item to the departments in order to implement this initiative; provided further, that the operational services division shall condition the expenditure of the reserve upon assurances that the funds shall be used solely for the purposes of adjustments to wages, compensation or salary; provided further, that not later than February 15, 2005, the division shall submit to the house and senate committees on ways and means a report delineating the number of employees, by job title and average salary, receiving such adjustment in fiscal year 2005 and the average per centage adjustment funded by this reserve; provided further, that the report shall also include, for each contract scheduled to receive any allocation from this item in each such department, the total payroll expenditures in each contract for the categories of personnel scheduled to receive the adjustments; provided further, that no funds from this item shall be allocated to special education pro-

Solid waste  
facility  
location  
section 320  
stands,  
yea and nay  
No. 732.

grams under chapter 71B of the General Laws, contracts for child care services or programs for which payment rates are negotiated and paid as class rates as established by the division of health care finance and policy; provided further, that no funds shall be allocated from this item to contracts funded exclusively by federal grants as delineated in section 2D; provided further, that the total fiscal year 2005 cost of salary adjustments and any other associated employee costs authorized thereunder shall not exceed \$20,000,000; provided further, that \$10,000,000 shall be expended in fiscal year 2005 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning less than \$25,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided further, that \$10,000,000 shall be expended in fiscal year 2005 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning more than \$25,001 and less than \$40,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided further, that the annualized cost of the adjustments in fiscal year 2006 shall not exceed the amount appropriated herein; and provided further, that the raises provided through this item shall be in addition to any already agreed to or collectively bargained for pay increases ..... 20,000,000".

After debate the question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call (Mr. Quinn of Dartmouth being in the Chair) 156 members voted in the affirmative and 0 in the negative.

**[See Ye and Nay No. 733 in Supplement.]**

Therefore item 1599-6901 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 7061-0011 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

"7061-0011 For a reserve to (1) meet extraordinary increases in the minimum required local contribution of a municipality as calculated pursuant to the requirements of section 3 of this act; provided, that a municipality seeking funds hereunder

Human  
service  
providers  
item  
1599-6901  
stands,  
yea and nay  
No. 733.

Human  
service  
providers  
item  
1599-6901  
stands,  
yea and nay  
No. 733.

shall apply for a waiver from the department of revenue pursuant to the provisions of section 3 of this act; provided, further, that the commissioner shall issue a finding concerning such waiver applications within 30 days of the receipt thereof, after consulting with the commissioner of education regarding the merits of such application; provided, further, that preference shall be given to municipalities with an increase of greater than 25 per cent in required contribution to any of the districts to which the municipality belongs as a result of the new regional allocation methodology; (2) meet expenses associated with extraordinary increases in enrollment calculated on a per centage basis for such municipalities; provided, that preference shall be given to districts with enrollment growth of greater than 10 per cent from fiscal year 2000 through fiscal year 2005; (3) address the effects of reductions in per pupil chapter 70 aid between fiscal year 2003 and fiscal year 2005; provided, that preference in the awarding of such funds shall be given to districts which receive less than 20 per cent of their foundation budgets as chapter 70 aid, and which received reductions in chapter 70 aid of greater than 10% between fiscal year 2003 and fiscal year 2004; (4) assist regional school districts which, prior to fiscal year 2005, have assessed member towns using the provisions of their regional agreement, and which, in fiscal year 2005, will assess member towns using the required contributions calculated pursuant to chapter 70 of the General Laws and section 3 of this act; (5) assist municipalities with median income below the state average and equalized valuation per capita above the state average; provided further, that preference in the awarding of funds shall be given to municipalities with required local contributions greater than 80 per cent of their foundation budgets; (6) assist municipalities which pay a separate and additional tax to multiple fire districts within the municipality's borders, and which have required minimum contributions in excess of 80 per cent of the municipal district's foundation budget; (7) assist municipalities negatively impacted by shortfalls in federal impact aid for the education of children of families employed by the federal government on military reservations located within the town limits; (8) assist densely populated urban districts with high fixed costs and enrollment declines of greater than 3 per cent resulting in no increase in Chapter 70 aid; provided further, that notwithstanding the provisions of any general or special law to the contrary, assistance funded by this item shall only be available on a one time non-recurring basis; provided

further, that the department shall make not less than 80 per cent of awards from this item not later than October 15, 2004; and provided further, that no funds distributed from this item to a municipality shall be considered base aid nor used in the calculation of the minimum required local contribution for fiscal year 2006 ..... 6,870,000".

After remarks the question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 156 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 734 in Supplement.]**

Therefore item 7061-0011 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Education  
reform  
funding  
reserve  
item  
7061-0011  
stands,  
yea and nay  
No. 734.

*Motion to Discharge a Certain Matter in the Orders of the Day.*

Mr. Flynn of Bridgewater moved that the engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land in the town of Bridgewater to Patrick Driscoll (see Senate, No. 1691, amended), which had been returned by the Governor with his objections thereto in writing (for message, see Senate, No. 2205), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Bridgewater,  
land.

The question on passing the bill, in concurrence, notwithstanding the said objections, was determined by yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution; and on the roll call 130 members voted in the affirmative and 23 in the negative.

**[See Yea and Nay No. 735 in Supplement.]**

Therefore the bill was passed, in concurrence, notwithstanding the objections of His Excellency the Governor (more than two thirds of the members having agreed to pass the same).

Bill passed  
over veto,  
yea and nay  
No. 735.

*Reports of a Committee.*

Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 4900), returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4850), reported, in part, in each instance, that certain items (contained in section 2) and section 312 stand (as passed by the General Court).

General  
Appropriation  
Bill,  
reductions  
and  
disapprovals.

Under suspension of the rules, in each instance, on motion of the same member, the following items and section were considered; and the sense of the House, in each instance, was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution, as follows:

Item 1231-1000 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“1231-1000 For the Commonwealth Sewer Rate Relief Fund established in section 2Z of chapter 29 of the  
General Laws ..... 10,000,000”.

Sewer Rate  
Relief Fund  
item  
1231-1000  
stands,  
yea and nay  
No. 736.

After debate the question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 144 members voted in the affirmative and 12 in the negative.

**[See Yea and Nay No. 736 in Supplement.]**

Therefore item 1231-1000 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 0330-0300 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“0330-0300 For the central administration of the trial court, including costs associated with trial court non-employee services, trial court dental and vision health plan agreement, jury expenses, trial court law libraries, statewide telecommunications, private and municipal court rental and leases, operation of courthouse facilities, witness fees, printing expenses, equipment maintenance and repairs, court interpreter program, and insurance and chargeback costs; provided, that funds may be expended for the judicial training institute; provided further, that the amount of increased compensation to certified private counsel appointed by the committee for public counsel services ordered by any court under Supreme Judicial Court Rule 3.10, section 5, shall be paid from this item; provided further, that 50 per cent of all fees payable pursuant to Massachusetts Rules of Criminal Procedure 15(d) and 30(c)(8) shall be paid from this item; provided further, that notwithstanding section 9A of chapter 30, or any general or special law to the contrary, the rights afforded to a veteran, pursuant to said section 9A of said chapter 30, shall also be afforded to any veteran, as so defined, who holds a trial court office or position in the service of the commonwealth not classified under chapter 31, other than an elective office, an appointive office for a fixed term or an office or position under section 7 of chapter 30, and who (1) has held the office or position for not less than 1 year and (2) has 30 years of total creditable service to the commonwealth, as defined in chapter 32; provided further, that not less than \$100,000 shall be expended for the implementation of a changing lives through literature program; provided further, that not less than \$100,000 shall be

expended from this item for a contract with Massachusetts General Hospital for a research program on abused children; provided further, that the chief justice for administration and management of the trial court shall make a report to the general court relative to the annual cost of maintaining the court system's electronic equipment and systems and identify means to reduce the costs; provided further, that the report shall include, but not be limited to the following: an analysis of current equipment maintenance service contracts, a review of alternative equipment maintenance programs which, if implemented, would result in cost savings, better management of the equipment repair process, and enhanced equipment protection; provided further that in preparing said report the chief justice for administration and management may utilize the services of appropriate third parties knowledgeable in equipment service contracts; provided further, that the chief justice for administration and management shall file said report with the house and senate committees on ways and means on or before October 1, 2004; provided further, that notwithstanding any general or special law or regulation to the contrary, the chief justice of administration and management of the trial court, in consultation with the state secretary, shall, not later than October 31, 2004, issue a request for purchase through the competitive bidding process for the provision of public records storage, except those records that receive federal reimbursement, for all state agencies within the jurisdiction of the trial court in order to achieve cost savings including, but not limited to, those associated with greater efficiencies in the use and payment of records storage, reduction in private office lease costs for administrative personnel, and for more efficient and accessible use of public office space by displacing records with administrative personnel. The chief justice shall, in consultation with the state secretary, report, not later than March 31, 2005, a plan to improve public records storage and office space efficiencies to the joint committee on state administration and to the house and senate committees on ways and means; provided further, that the trial court shall submit a report to the victim and witness assistance board detailing the amount of assessments imposed within each court by a justice or clerk-magistrate during the previous calendar year pursuant to section 8 of chapter 258B of the General Laws; provided further, that said report shall include, but not be limited to, the number of cases in which said assessment was reduced or waived by a judge or clerk-magis-



trate within said courts; provided further, that said report shall be submitted to the victim and witness assistance board on or before January 14, 2005; provided further, that notwithstanding any general or special law to the contrary, the chief justice for administration and management shall not transfer any criminal or civil cases from the third district court of Essex at Ipswich prior to June 30, 2005; provided further, that said chief justice shall submit a report to the house and senate chairmen of the joint committee on the judiciary not later than October 1, 2004 detailing a plan to provide for the closure of the third district court of Essex at Ipswich; and provided further, that said report shall include, but not be limited to, transfer of personnel, reallocation of resources, the impact on other district courts resulting from the closure of said court, and other factors that may affect implementation of said closure ..... 103,671,838”.

[The Governor reduced the item to \$99,671,838 and disapproved the following wording: “; provided further, that notwithstanding any general or special law to the contrary, the chief justice for administration and management shall not transfer any criminal or civil cases from the third district court of Essex at Ipswich prior to June 30, 2005; provided further, that said chief justice shall submit a report to the house and senate chairmen of the joint committee on the judiciary not later than October 1, 2004 detailing a plan to provide for the closure of the third district court of Essex at Ipswich; and provided further, that said report shall include, but not be limited to, transfer of personnel, reallocation of resources, the impact on other district courts resulting from the closure of said court, and other factors that may affect implementation of said closure”.]

After remarks the question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 130 members voted in the affirmative and 26 in the negative.

**[See Yea and Nay No. 737 in Supplement.]**

Therefore item 0330-0300 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 0330-3200 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“0330-3200 For the court security program, including personnel and expenses; provided, that the chief justice for administration and management shall submit a report to the house and senate committees on ways and means not later than January 31, 2005, detailing the number of court officers and security personnel located in each trial court of the commonwealth ..... 49,967,224”.

[The Governor reduced the item to \$48,367,224.]

After remarks the question on passing said item, notwithstanding the reduction of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 137 members voted in the affirmative and 19 in the negative.

**[See Yea and Nay No. 738 in Supplement.]**

Therefore item 0330-3200 (contained in section 2) was passed, notwithstanding the reduction of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 0331-3404 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“0331-3404 For an education and community outreach pilot program to be administered in the Suffolk superior criminal court ..... 178,902”.

The question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 119 members voted in the affirmative and 36 in the negative.

**[See Yea and Nay No. 739 in Supplement.]**

Therefore item 0331-3404 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 312, which had been vetoed by the Governor, was considered, as follows:

“SECTION 312. Notwithstanding any general or special law to the contrary, the authority of the board of education to grant commonwealth charters to an applicant pursuant to section 89 of chapter 71 of the General Laws shall be suspended until July 31, 2005 or until such time as a new tuition formula consistent with the recommendations of the house and senate working group authorized in this section has become law, whichever is sooner. During the period of suspension, the board shall not authorize additional enrollment, beyond that approved by the board before January 1, 2004, in any existing or previously authorized commonwealth charter school. Further, the approval of the commonwealth charters by the name of the Advanced Math and Science Academy Charter School, Community Charter School of Cambridge, KIPP Academy Lynn Charter School, Berkshire Arts and Technology Charter School and the Salem Academy Charter School made before the effective date of this section shall be suspended and the charter schools so named shall not be allowed to open until the department of education, after this period of suspended authority, conducts a full review of the application and authorization process of the commonwealth charters named above to insure that the letter and spirit of the laws governing those processes have been followed by the department and the board of education.

There shall be a house and senate working group to study all aspects of, make recommendations on how to improve and develop legislation to change the current tuition financing system for charter

Trial Court  
administration  
item  
0330-0300  
stands,  
yea and nay  
No. 737.

Trial Court  
court officers  
item  
0330-3200  
stands,  
yea and nay  
No. 738.

Suffolk  
education and  
community  
outreach  
item  
0331-3404  
stands,  
yea and nay  
No. 739.

schools. The first meeting of the working group shall take place within 30 days after the effective date of this section. The working group shall consist of the speaker of the house of representatives, or his designee, the president of the senate, or his designee, the minority leaders of the house and senate, or their designees, the house and senate chairs of the joint committee on education, arts and humanities and the chairs of the house and senate committee on ways and means.

Based on the findings of its study, the working group shall make recommendations on how the existing financing system can be improved in order to more closely align the funds sent to charter schools from state and local sources with the funds that would have been expended on the education of the charter school students if they remained in the districts from which they are drawn. The recommendations shall reflect actual costs associated with the grade level, program participation and demographic profile of students attending charter schools, including all capital costs, transportation costs and other factors which contribute to the actual cost of educating these students. The working group shall also examine the relationship between charter school funding and state education funding under chapter 70 of the General Laws, and shall ensure that any recommendations for changes in charter school funding are consistent with the principles, objectives and formulas embodied in the funding formula under said chapter 70. Any legislation proposed by the working group shall require that funding be reflective of the grade level, program participation and demographic profile of the actual students enrolled in charter schools. The working group shall compile data which shall compare the demographic profile and educational needs that characterize charter school students with those that characterize students in the districts from which they are sent. The working group shall solicit advice from such persons and entities as it deems necessary, including the department of education, as well as associations representing superintendents, school budget officers, municipal officials and charter schools. The working group shall file a report containing its recommendations, including legislation necessary to carry out its recommendations, with the clerk of the house of representatives who shall forward the same to the joint committee on education, arts and humanities on or before December 1, 2004.”

After debate the question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call (the Speaker having returned to the Chair) 76 members voted in the affirmative and 78 in the negative.

**[See Yeas and Nays No. 740 in Supplement.]**

[Mr. Walsh of Boston answered “Present” in response to his name.]

Therefore the veto of section 312 was sustained (less than two-thirds of the members present and voting having voted in the affirmative).

Charter  
school  
moratorium  
section 312  
veto  
sustained,  
yea and nay  
No. 740.

*Engrossed Bill — Land Taking.*

The engrossed Bill authorizing the town of Middleton to grant certain easements (see House, No. 4196, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 156 members voted in the affirmative and 0 in the negative.

**[See Yeas and Nays No. 741 in Supplement.]**

Therefore the bill was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

*Recess.*

At nine minutes before six o'clock P.M., without proceeding to the matters in the Orders of the Day, on motion of Mr. Falzone of Saugus (the Speaker being in the Chair), the House recessed until the hour of one o'clock P.M. on Wednesday, July 21.

Middleton,  
easements.

Bill enacted  
(land taking),  
yea and nay  
No. 741.

Recess.





























































































